

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

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THE UNITED STATES OF AMERICA,

Plaintiff,

v.

THE COMMONWEALTH OF  
MASSACHUSETTS, et al.

Defendants, and

THE COALITION FOR BUZZARDS BAY,

Intervenor-Defendant

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THE AMERICAN WATERWAYS OPERATORS,  
et al.

Intervenor-Plaintiff

v.

MITT ROMNEY, Governor of Massachusetts, et al.

Defendants

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Civil Action No. 05-10112 JLT

**DEFENDANTS' LIST OF INDIVIDUALS THEY WISH TO DEPOSE**

In accordance with the Court's January 23, 2006 "Discovery Order" and subject to the Qualifications, below, the State Defendants and Intervenor-Defendant The Coalition for Buzzards Bay (collectively, the "Defendants"), jointly state that they wish to depose some or all of the following individuals<sup>1</sup>:

1. Captain Mary E. Landry, Chief, Protection Division, First Coast Guard District, 408 Atlantic Avenue, Boston, MA 02110-3350;
2. Fran Donovan, United States Army Corps of Engineers, New England District, 696 Virginia Road, Concord, MA 01742-2751;

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<sup>1</sup> Depending upon the documents provided by Plaintiff and Intervenor-Plaintiff through automatic disclosure and discovery, it may not be necessary to take the depositions of all of the listed individuals.

3. John Torgan, Narragansett BayKeeper, Save the Bay (Rhode Island), Save The Bay Center, 100 Save The Bay Dr., Providence, RI 02905;
4. David Pekoske, Rear Admiral, USCG, Commander, First Coast Guard District, 408 Atlantic Avenue, Boston, MA 02110-3350;
5. Edward G. LeBlanc, C.O., USCG Marine Safety Office, 20 Risho Avenue, East Providence, R.I. 02914-1208;
6. Thomas Scott Kuhaneck, Domestic Vessel Compliance Division, Office of Compliance, United States Coast Guard, Coast Guard Headquarters, 2100 Second Street, SW, Washington, DC 20593;
7. Captain Arthur J. Fournier, Canal Towing & Assist Service, LLC, Massachusetts Maritime Dock, On the Cape Cod Canal, PO Box 332, Buzzards Bay, MA 02532;
8. Captain Lawrence Palmer, Pilot, Northeast Marine Pilots, Inc. 243 Spring Street, Newport, RI 02840;
9. Pursuant to Fed. R. Civ. P. 30(b)(6), a designee of the United States Coast Guard to testify on its behalf regarding topics relevant to the claims and defenses of the parties, including but not limited to:
  - a. the Regional Risk Assessment of Petroleum Transportation on the Waters of the Northeast United States;
  - b. the development of the Regulated Navigation Area: Navigable Waters Within the First Coast Guard District, codified at 33 C. F. R. 165.100.;
  - c. the Ports and Waterways Safety Assessment Workshop for Buzzards Bay;
  - d. the Advanced Notice of Proposed Rulemaking: Navigation and Waterways Management Improvements, Buzzards Bay;
  - e. the inspection of towing vessels, including the Coast Guard's interpretation of when a vessel becomes an "inspected vessel";
  - f. the transport of petroleum products through Buzzards Bay;
  - g. the history of oil spill incidents and near misses in Buzzards Bay;
  - h. the affects that various provisions of the Oil Spill Prevention Act have or are expected to have on vessels traveling through Massachusetts waters;

10. Pursuant to Fed. R. Civ. P. 30(b)(6), a designee of the American Waterways Operators, Intertanko, BIMCO and/or the Chamber of Shipping of America to testify on its behalf regarding topics relevant to the claims and defenses of the parties, including but not limited to:
  - a. the risks of innocent noncompliance posed by various provisions of the Oil Spill Prevention Act;
  - b. the affects that various provisions of the Oil Spill Prevention Act have or are expected to have on vessel operation outside of Massachusetts;
  - c. any adjustments of systemic aspects of vessels required by various provisions of the Oil Spill Prevention Act;
  - d. the burden various provisions of the Oil Spill Prevention Act impose on vessel operation within Massachusetts' waters;
  - e. the costs or anticipated costs of compliance with various aspects of the Financial Assurance provision.

### **QUALIFICATIONS**

The Defendants' fact investigation is ongoing. The Defendants anticipate that they may, in the course of such investigation, learn that additional individuals have information relevant to claims and/or defenses of the parties. The Defendants respectfully request the opportunity to revise and supplement this list should they become aware of additional individuals they may wish to depose.

COMMONWEALTH OF  
MASSACHUSETTS

By its attorneys,

/s/ Nora J. Chorover (by permission

/s/ Jonathan M. Ettinger)

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THE COALITION FOR BUZZARDS BAY

By its attorneys,

/s/ Jonathan M. Ettinger

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Dated: February 13, 2006